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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA)			
	Plaintiff,) 8:05MJ169)	
	vs.) DETENTION ORDER	
DIEGO A. LEDEZMA-HERNANDEZ,			
	Defendant.)	
A.	Order For Detention After waiving a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act on January 12, 2005, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).		
B.	 Statement Of Reasons For The Detention The Court orders the defendant's detention because it finds: X By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community. 		
C.	distribute in excess of 500 21 U.S.C. § 846 carric imprisonment and a maxir (b) The offense is a crime of v (c) The offense involves a nate of v (d) The offense involves a larger	Report, and includes the following: offense charged: to distribute and possess with intent to grams of methamphetamine in violation of es a minimum sentence of ten years mum of life imprisonment. violence. recotic drug. ge amount of controlled substances, to wit:	
	affect whether the de The defendant has n X The defendant has n X The defendant has n X The defendant is not The defendant does Past conduct of the c The defendant has a The defendant has a The defendant has a	ars to have a mental condition which may affendant will appear. To family ties in the area. To substantial financial resources. To a long time resident of the community. The not have any significant community ties. The lefendant: history relating to drug abuse. In significant prior criminal record. The prior record of failure to appear at court	

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X (4)	ProbationParoleRelease pending trial, sentence, appeal or completion of sentence. (c) Other Factors:XThe defendant is an illegal alien and is subject to deportationThe defendant is a legal alien and will be subject to deportation if convictedXThe Bureauof Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. MarshalOther:The nature and seriousness of the danger posed by the defendant's release are as follows: The nature of the charges in the complaint. There has been an outstanding warrant for the defendant's arrest for eighteen months for the defendant's failure to appear on a weapons charge in Cass County, Nebraska.
<u>_X</u>	Rebuttable Presumptions In determining that the defendant should be detained, the Court also relied on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) which the Court finds the defendant has not rebutted: (a) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other person and the community because the Courtfinds that the crime involves: (1) A crime of violence; or X (2) An offense for which the maximum penalty is life imprisonment or death; or X (3) A controlled substance violation which has a maximum penalty of 10 years or more; or (4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3) above, and the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed while the defendant was on pretrial release. (b) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable cause to believe: X (1) That the defendant has committed a controlled substance violation which has a maximum penalty of 10 years or more. (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device).

D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from

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- persons awaiting or serving sentences or being held in custody pending appeal; and
- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: January 12, 2006. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge